

IN THE DRAWINGS

Replacement formal FIGs. 1 – 7 are included with this Response to Office Action. No new matter is introduced in the replacement formal FIGs. 1 – 7.

REMARKS

Applicants thank the Examiner for the Examiner's timely and thorough search of the art and Office Action. Applicants, by this Amendment, have amended the Claims to overcome all deficiencies noted in the Examiner's Office Action. No new matter has been entered by this Amendment. After entry of this Amendment, Claims 1 – 19 remain pending in the Application.

In the Office Action the Examiner required a new oath or declaration.

A new Declaration is included herewith.

Continuing in the Office Action, the Examiner required formal drawings as a part of the response to the Office Action.

Formal drawings are included with this response. As suggested by the Examiner in the Office Action, a manually operated force generating unit and a hydraulic ram device have been included in the drawings (FIGs. 5 and 7). Annotated marked-up drawings are included herewith to specifically identify in red the changes made in FIGs. 5 and 7. The specification has been amended at pages 5 and 7 to provide antecedent basis for the elements newly included in FIGs. 5 & 7. No new matter has been added by these amendments to FIGs. 5 & 7 or to the Specification. Matter involved in the amendments to FIGs. 5 & 7 and to the Specification is merely a recitation of exemplary structure for implementing elements contained in the original disclosure in the Claims.

Continuing in the Office Action, the Examiner rejected Claims 12 – 19 under 37 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. According to the Examiner, in Claim 12, line 1, "said force generating unit" lacks antecedent basis.

Claim 12 has been amended to claim “said motion generating unit”, thereby providing appropriate antecedent basis among terms. It is requested that the Examiner remove the objection to Claims 12 – 19 under 37 U.S.C. 112, second paragraph.

Continuing in the Office Action, the Examiner rejected Claims 1 – 4, 6, 9, 10, 12, 13, 15 and 18 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,420,772 to Evans (hereinafter referred to as “Evans”). According to the Examiner, Evans shows an object positioning device which could be used without modification for moving a battery relative to a shelf unit, inasmuch as neither a battery nor a shelf unit are positively recited structural limitations, comprising (citing FIG. 4 embodiment of Evans) rotary motion generating unit 170, linear motion translating unit 178, object engaging structure 26 (citing FIG. 1; Evans), and rigid frame 142, which is “adapted to cooperate with a shelf unit” as broadly claimed, wherein the object is moved in a vertical axis in response to the force of the motion translating unit.

With regard to Claim 3, the Examiner cited force generating unit 164 of Evans as being integral with the motion generating unit.

With regard to Claim 4, the Examiner noted the embodiment of Evans’ FIG. 1 in which the force generating unit 94 is separate from and configured for connection with the motion generating unit 60.

Applicants respectfully traverse the Examiner’s rejection of Claims 1 – 4, 6, 9, 10, 12, 13, 15 and 18 under 35 U.S.C. 102(b) as being anticipated by Evans. Evans discloses an electrically operated system for raising and lowering a chandelier and retaining the chandelier safely at any height within a predetermined range (Evans; Col. 1, lines 6 – 9). Evans does not disclose moving a battery with respect to an installed orientation supported on a shelf. Evans does not disclose any shelf interacting with his apparatus in a manner that substantially fixedly situates his apparatus while moving his chandelier.

A shelf unit is now specifically claimed in each of amended independent Claims 1 and 12. The shelf unit supports the battery in an installed orientation. The rigid frame supports the motion generating unit and motion translating unit and is configured for engaging the shelf unit during the moving of the battery.

Evans does not anticipate, disclose, teach, show, suggest, infer or in any way render obvious the present invention as claimed in amended independent Claims 1 and 12. It is respectfully submitted that Claims 1 and 12 patentably distinguish over Evans.

The remaining Claims 2 – 4, 6, 9, 10, and 13 rejected by the Examiner under 35 U.S.C. 102(b) as being anticipated by Evans are all ultimately dependent upon one of amended independent Claims 1 and 12 and are therefore themselves each patentably distinct over Evans.

It is respectfully requested that the Examiner remove the rejection of Claims 1 – 4, 6, 9, 10, 12, 13, 15 and 18 under 35 U.S.C. 102(b) as being anticipated by Evans.

The Examiner continued in the Office Action, rejecting Claims 1 – 3, 5 and 12 – 14 under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent 4,126,232 to Orawiec (hereinafter referred to as “Orawiec”).

Applicants respectfully traverse the Examiner’s rejection of Claims 1 – 3, 5 and 12 – 14 under 35 U.S.C. 102(b) as being clearly anticipated by Orawiec.

Orawiec discloses a lifting mechanism movably supported upon parallel rails mounted across the top of an electrical switchboard apparatus in a weatherproof housing.

Orawiec’s lifting mechanism is a bridge-type crane comprising a perimeter frame of U-shaped steel channel members. The frame is supported to allow the lifting mechanism to be rolled horizontally along the support rails. A movable pulley is provided, and a winch is mounted upon the mechanism providing a cable which runs horizontally across the

frame to the pulley to provide a lifting point for circuit interrupting apparatus to be positioned (Orawiec; Col 1, line 59 – Col. 2, line 9).

A shelf unit is now specifically claimed in each of amended independent Claims 1 and 12. The shelf unit supports the battery in an installed orientation. The rigid frame supports the motion generating unit and motion translating unit and is configured for engaging the shelf unit during the moving of the battery.

Orawiec does not anticipate, disclose, teach, show, suggest, infer or in any way render obvious the present invention as claimed in amended independent Claims 1 and 12. It is respectfully submitted that Claims 1 and 12 patentably distinguish over Orawiec.

The remaining Claims 2 – 3, 5, 13 and 14 rejected by the Examiner under 35 U.S.C. 102(b) as being anticipated by Orawiec are all ultimately dependent upon one of amended independent Claims 1 and 12 and are therefore themselves each patentably distinct over Orawiec.

It is respectfully requested that the Examiner remove the rejection of Claims 1 – 3, 5 and 12 – 14 under 35 U.S.C. 102(b) as being anticipated by Orawiec.

The Examiner continued in the Office Action, rejecting Claims 1 – 3, 5, 9, 10, 12 – 14 and 19 under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent 3,652,057 to Brown (hereinafter referred to as “Brown”).

Applicants respectfully traverse the Examiner’s rejection of Claims 1 – 3, 5, 9, 10, 12 – 14 and 18 under 35 U.S.C. 102(b) as being clearly anticipated by Brown. Brown discloses a motor vehicle engine winch having a hollow T-shaped structural member supported at each end at the top of the T-shaped structure by a pair of adjustable legs and having a threaded shaft slidably received by another member’s end carrying a captured nut therein. A tension cable is attached with the captured nut and to a suspended pair of hooks for engaging a vehicle motor. The T-shaped member cooperates

with a vehicle bumper to position the hook member for compressing and removing an engine compartment lid spring via a clamp member attached thereto (Brown; Abstract).

A shelf unit is now specifically claimed in each of amended independent Claims 1 and 12. The shelf unit supports the battery in an installed orientation. The rigid frame supports the motion generating unit and motion translating unit and is configured for engaging the shelf unit during the moving of the battery.

Brown does not anticipate, disclose, teach, show, suggest, infer or in any way render obvious the present invention as claimed in amended independent Claims 1 and 12. It is respectfully submitted that Claims 1 and 12 patentably distinguish over Brown.

The remaining Claims 2 – 3, 5, 9, 10, 13 - 14 and 18 rejected by the Examiner under 35 U.S.C. 102(b) as being anticipated by Brown are all ultimately dependent upon one of amended independent Claims 1 and 12 and are therefore themselves each patentably distinct over Brown.

It is respectfully requested that the Examiner remove the rejection of Claims 1 – 3, 5, 9, 10, 12 – 14 and 18 under 35 U.S.C. 102(b) as being anticipated by Brown.

The Examiner continued in the Office Action, rejecting Claims 1, 3, 5, 8, 11, 12, 14, 17 and 19 under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent 4,030,705 to Bontrager (hereinafter referred to as “Bontrager”). According to the Examiner, regarding Claims 11 and 19, the frame is “telescopically disposed” (citing Bontrager, Col. 2, line 39) and could be used to move the lifted article horizontally. The Examiner noted that to anticipate an apparatus claim, a reference need only show the positively recited structural elements and be capable of performing the functional recitations.

The Examiner also rejected Claims 6 – 7 and 15 – 16 under 35 U.S.C. 103 (a) as being unpatentable over Bontrager. According to the Examiner, although manually

powered, Bontrager discloses that the device may alternatively use a power driven motor (citing Bontrager; Col. 3, lines 9 – 11). The Examiner opined that, although not explicitly stated, it is considered obvious, if not inherent, that such a motor would be electric. However, the Examiner noted, there is no indication given by Bontrager that the motor would be battery powered. Nevertheless, according to the Examiner, it would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Bontrager such that the motor would be battery powered, for example by the battery of the vehicle, as this would simply be a well known design expediency, the use of which would require no undue experimentation and produce no unexpected results.

Applicants respectfully traverse the Examiner's rejection of Claims 1, 3, 5, 8, 11, 12, 14, 17 and 19 under 35 U.S.C. 102(b) as being clearly anticipated by Bontrager. Applicants also respectfully traverse the Examiner's rejection of Claims 6 – 7 and 15 – 16 under 35 U.S.C. 103 (a) as being unpatentable over Bontrager. Bontrager discloses a vehicle engine motor lift device for raising the engine a few inches to permit service and repair operations to be performed on the engine; which can be adjusted to handle engines under automobile hood or under truck and van cabs; which can be supported on the vehicle frame, body or fender; and which is convenient and safe to use (Bontrager; Col. 1, lines 21 – 47).

A shelf unit is now specifically claimed in each of amended independent Claims 1 and 12. The shelf unit supports the battery in an installed orientation. The rigid frame supports the motion generating unit and motion translating unit and is configured for engaging the shelf unit during the moving of the battery.

Bontrager does not anticipate, disclose, teach, show, suggest, infer or in any way render obvious the present invention as claimed in amended independent Claims 1 and 12. It is respectfully submitted that Claims 1 and 12 patentably distinguish over Bontrager.

The remaining Claims 3, 5, 8, 11, 14, 17 and 19 rejected by the Examiner under 35 U.S.C. 102(b) as being anticipated by Bontrager are all ultimately dependent upon one of amended independent Claims 1 and 12 and are therefore themselves each patentably distinct over Bontrager. Further, Claims 6 – 7 and 15 – 16 rejected by the Examiner under 35 U.S.C. 103 (a) as being unpatentable over Bontrager are also all ultimately dependent upon one of amended independent Claims 1 and 12 and are therefore themselves each patentably distinct over Bontrager.

It is respectfully requested that the Examiner remove the rejection of Claims 1, 3, 5, 8, 11, 12, 14, 17 and 19 under 35 U.S.C. 102(b) as being anticipated by Bontrager. It is also respectfully requested that the Examiner remove the rejection of Claims 6 – 7 and 15 – 16 under 35 U.S.C. 103 (a) as being unpatentable over Bontrager.

The Examiner continued in the Office Action, noting that the application currently names joint inventors. The Examiner stated a presumption that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made.

Applicants hereby confirm that the Examiner's presumption is correct that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made.

Applicants have reviewed the other art cited of record. None of the art individually or in any combination with each other or with Evans, Orawiec, Brown or Bontrager anticipates discloses, teaches, shows, suggests, infers or in any way renders obvious the present invention as claimed in Claims 1 – 19. It is respectfully submitted that Claims 1 – 19 patentably distinguish over the art of record.

Applicants respectfully request an extension of the period for response to the Office Action for one month until April 12, 2006, and the required fee under 35 U.S.C. 1.17(a)(1) is enclosed with this response.

Since Applicants have fully and completely responded to the Official Action, this Application is now in order for early action and such early action is respectfully requested. If the Examiner would deem a telephone conference to be of value in expediting this Application, the Examiner is invited to call the undersigned attorney at (972) 662-9378 at the Examiner's convenience.

Respectfully submitted,



Donald D. Mondul

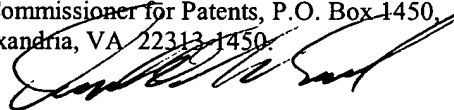
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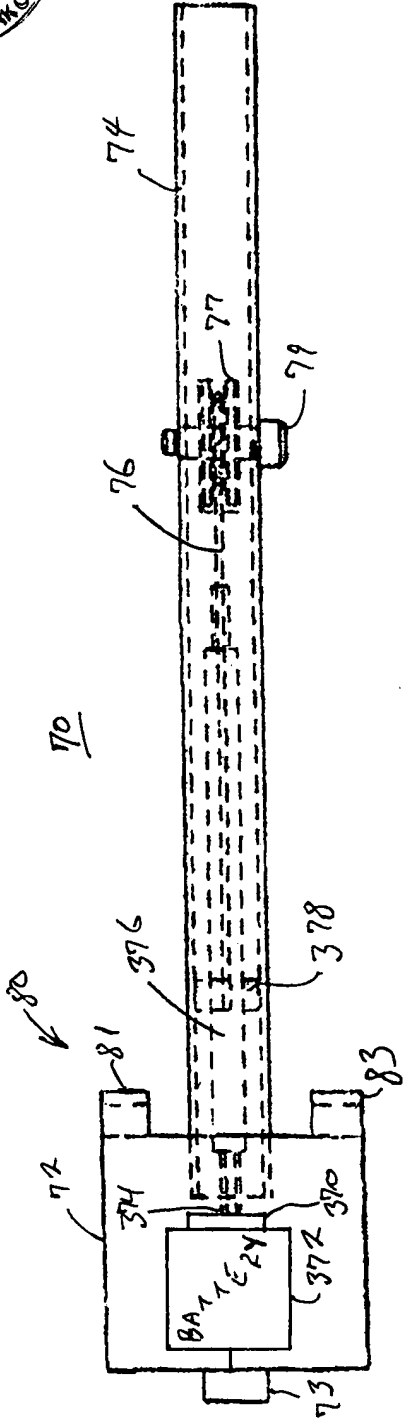


Fig. 4

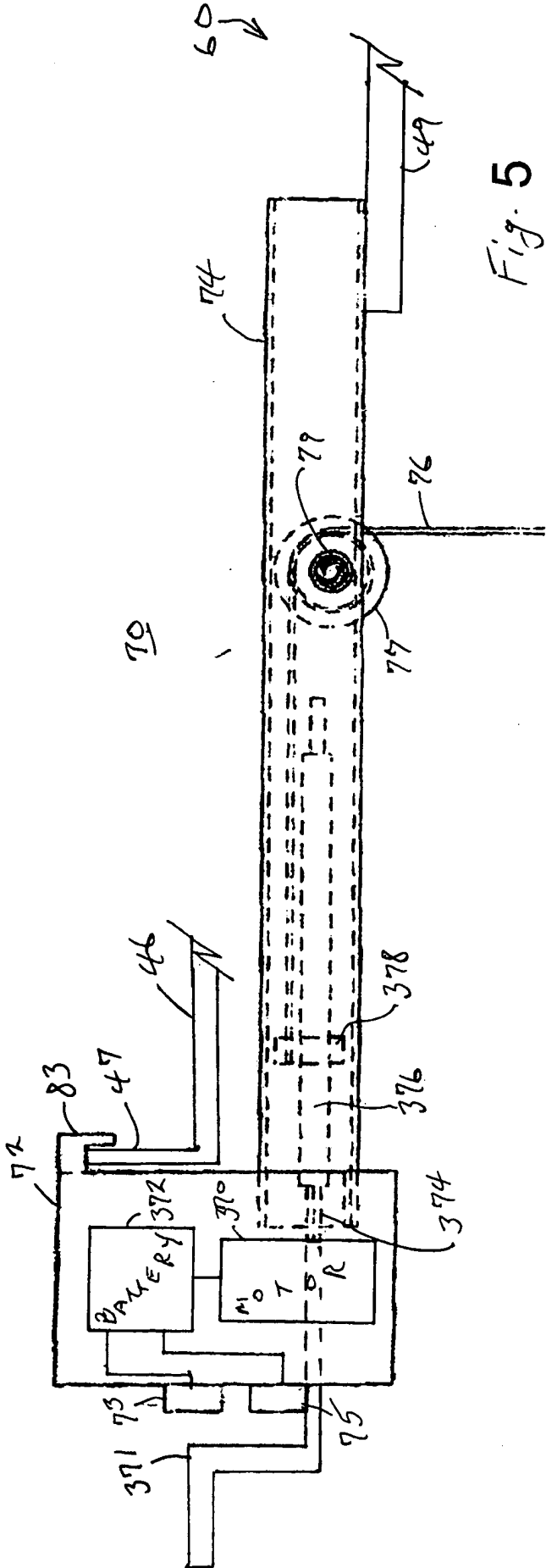


Fig. 5

ANNOTATED MARKED-UP DRAWING

